

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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SAMUEL L. BOYD, as Trustee in Bankruptcy of  
the LANE LUMBER COMPANY, LIM-  
ITED, a Corporation, Bankrupt,

Appellant,

vs.

MARY WALL,

Appellee.

---

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation, Bankrupt.

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Transcript of Record.

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Upon Appeal from the United States District Court  
for the District of Idaho, Northern Division.

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FILED

JAN 17 1914



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# INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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**[Names and Addresses of Attorneys.]**

E. N. LaVEINE, Attorney for Samuel L. Boyd,  
Trustee of the Lane Lumber Company, Limited,  
a Corporation, Involuntary Bankrupt.

Residence and P. O. Address: Coeur d'Alene,  
Idaho.

FRANK LANGLEY, Attorney for Mary Wall,  
Claimant.

Residence and P. O. Address: Coeur d'Alene,  
Idaho.

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—No. 449.

In the Matter of LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Proof of Claim.**

At Harrison, in the county of Kootenai, State of Idaho, on the 6th day of September, 1911, came Mary Wall, of Harrison, Kootenai County, State of Idaho, and made oath and says the Lane Lumber Company, Limited, a corporation, against whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is justly indebted to said deponent in the sum of one thousand sixty-six and 25/100 (\$1,066.25) dollars, as is evidenced by a certain promissory note for the sum of \$750.00 dated at Lane, Idaho, December 2d,



1907, executed by said bankrupt, in favor of deponent, said note being hereto attached, made part hereof, filed herewith and marked exhibit "A"; and as evidenced by a certain check for the sum of eighty dollars, dated at Harrison, Idaho, March 19, 1910, executed by said bankrupt in favor of deponent, said check being hereto attached, made part hereof, filed herewith and marked exhibit "B"; that the consideration for said promissory note is as follows: That deponent sold to said bankrupt the following described property, and that said *promissory was* given in *payment part* of the purchase price thereof: The north one-half of the northeast quarter (NE.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$ ) and north one-half of the northwest quarter (N.  $\frac{1}{2}$  of the NW.  $\frac{1}{4}$ ) of section thirty-four (34), township forty-nine (49) north of range two (2) east, B. M.; that the consideration for said check is as follows: [1\*]

#### EXHIBIT "A."

In payment for work, labor and services performed at Kootenai camp between the 15th day of November, 1909, and the 1st day of May, 1910, at the rate of \$40.00 per month less \$140.00 credit, as per itemized statement attached hereto and made a part hereof, and filed herewith, and that the M. A. Wall, payee in said check, and the Mary Wall, payee in said promissory note, is one and the same person, and is the person who makes this proof of claim; that no part of said debt has been paid, and that there are no setoffs or counterclaims to the same, and

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\*Page-number appearing at foot of page of original certified Record.



that the deponent has not nor has any person by her order or to her knowledge or belief for her use had or received any manner of security for said debt whatever, and that no judgment has been rendered thereon; and that no note has been given for the payment of said sum of \$80.00 evidenced by said check.

MARY WALL.

Subscribed and sworn to before me this 6th day of September, 1911.

[Seal]

M. A. KIGER,  
Notary Public. [2]

Harrison, Idaho, Sept. 6, 1911.

Lane Lumber Company *Company*, Ltd.

To Mary Wall.

1909.

Nov. 1/2 mo.	For work, labor and services performed at Kootenai Camp at the agreed wages of \$40.00 per month clerking and keeping books....	\$ 20.00
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Dec. 1 mo.	“ “ . . . .	40.00
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1910.

Jan. 1 mo.	“ “ . . . .	40.00
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Feb. 1 mo.	“ “ . . . .	40.00
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Mar. 1 mo.	“ “ . . . .	40.00
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Apr. 1 mo.	“ “ . . . .	40.00
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\$220.00

Credit:

By check.....	140.00
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[3]

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\$ 80.00

[Endorsed]: In Matter of Lane Lumber Co., Ltd., a Corporation, Bankrupt. Proof of Claim and Power of Attorney from Mary Wall. Amt. \$1066.25. Allowed. Filed this 7th day of Sept. 1911, at 10 o'clock A. M. L. L. Lewis, Referee. Filed Dec. 23, 1913. A. L. Richardson, Clerk. [4]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—No. 449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Amended Proof of Claim.**

State of Idaho,  
County of Kootenai,—ss.

At Harrison, in the county of Kootenai, State of Idaho, on the 10 day of June, 1912, came Mary Wall, of said city of Harrison, and made oath and says: That the Lane Lumber Company, Ltd., a corporation, against whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly indebted to said deponent in the sum of one thousand twenty-three and 35/100 dollars (\$1,023.35), as is evidenced by a certain promissory note for \$750.00, with interest at the rate of 7% per annum from date until paid, dated at Lane, Idaho, December 2, 1907, executed by said bankrupt in favor of deponent, said note being attached to the original proof of claim

filed herein on the 7th day of September, 1911, marked exhibit "A"; and as evidenced by a certain check for the sum of eighty dollars (\$80.00), dated at Harrison, Idaho, March 19, 1910, executed by said bankrupt in favor of deponent, and being attached to said original proof of claim and marked exhibit "B"; that the consideration for said promissory note is as follows, to wit: That on or about the 2 day of December, 1907, deponent sold and delivered to said bankrupt the north half of the northeast quarter and the north half of the northwest quarter of section thirty-four in township forty-nine north, range two east of Boise Meridian, in Shoshone County, State of Idaho, and said note was executed and delivered by said bankrupt to deponent in payment of part of the price of [5] said premises which have never been transferred or conveyed by said bankrupt to any purchaser or incumbrancer in good faith and for value; and that said note is unpaid and unsecured otherwise than by the personal obligation of said bankrupt; and that under the laws of the State of Idaho deponent is entitled to a vendor's lien against said premises for the amount due upon said note, to wit: \$750.00 principal, and \$186.35 interest; that the consideration for said claim for said sum of \$80.00 evidenced by said check is as follows, to wit: That deponent was employed by said bankrupt between November 15, 1909, and May 1, 1910, as a bookkeeper and clerk, at Kootenai Camp, for the price of \$40.00 per month; that deponent under such contract performed such labor and received such pay therefor

as is shown by the itemized statement hereto attached and marked exhibit "B," the deponent under such employment earning the sum of \$220.00, and receiving pay thereon in the sum of \$140.00, leaving a balance due in the sum of \$80.00, which sum is evidenced by said check, which sum with interest amounting to \$7.00 deponent claims as an unsecured claim against said bankrupt. That deponent and M. A. Wall, payee in said check, are one and the same person.

That no part of said debts or either of them has been paid, and that there are no setoffs or counterclaims to the same, and the deponent has not nor has any person by his order or to his knowledge or belief for her use had or received any manner of security for said debts whatever; and that no judgment has been rendered thereon; and that no note otherwise than as hereinbefore mentioned has been given for said debts; that said exhibits marked "A" and "B," respectively, and attached to said Original Proof of Claim are hereby referred to and made a part of this Amended Proof of Claim.

Deponent prays the Court to allow and pay said sum of \$750.00 and \$186.35, respectively, due on said promissory note, as a preferred and secured claim, and that the same be declared [6] to be a lien against said premises, and that such premises be sold and the proceeds arising from the sale thereof be applied towards the payment of the amount so due upon said promissory note; and that said sum of \$87.00 be allowed and paid as an unsecured claim against said bankrupt estate.

MARY WALL.

Subscribed and sworn to before me this 10 day of  
June, A. D. 1912.

[Seal]

FRANK LANGLEY,

Notary Public. [7]

**Exhibit "B" [Itemized Statement Rendered by  
Lane Lumber Company to Mary Wall.**

Harrison, Idaho, September 6, 1911.

Lane Lumber Company, Ltd.

To Mary Wall.

1909.

Nov. 1/2 mo. For work, labor and services  
performed at Kootenai  
Camp at the agreed wages  
of \$40.00 per month clerk-  
ing and keeping books....\$ 20.00

Dec. 1 mo. Clerking and keeping books.. 40.00

1910.

Jan. 1 mo. " " .... 40.00

Feb. 1 mo. " " .... 40.00

Mar. 1 mo. " " .... 40.00

Apr. 1 mo. " " .... 40.00

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\$220.00

Credit ..... 140.00

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By check.....\$ 80.00

[8]

[Endorsed]: #449. In the District Court of U.  
S., Dist. of Idaho, Northern Division. In the Mat-  
ter of Lane Lbr. Co., Ltd., a Corporation, Bankrupt.  
Petition to File Amended Proof of Claim and



Amended Proof of Claim by Mary Wall. Filed this 13th day of June, 1912, at 9:00 A. M. L. L. Lewis, Referee. Kiger & Langley, Attorneys for Petitioner, Residing at Coeur d'Alene, Idaho. Filed Dec. 23, 1913. A. L. Richardson, Clerk. [9]

**Exhibit "A" [Promissory Note].**

Lane, Idaho, December 2, 1907.

\$750.00

On demand, after date, without grace we promise to pay to the order of Mary Wall Seven Hundred Fifty Dollars in gold coin of the United States of America, of the present standard value, with interest thereon, in like gold coin, at the rate of seven per cent per annum from date until paid, for value received. Interest to be paid annually and if not so paid, and whole sum of both principal and interest to become immediately due and collectible, at the option of the holder of this note. And in case suit or action is instituted to collect this note, or any portion thereof, we promise and agree to pay in addition to the costs and disbursements provided by statute, Fifty Dollars in like gold coin for attorney's fees in said suit or action.

LANE LUMBER CO., LTD.

Per P. H. WALL,

President.

Due on demand at Office Lane, Idaho.

[Seal]

M. K. WALL,

Secretary. [10]

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Second Amended Proof of Claim of Mary Wall,  
Secured Debt.**

State of Idaho,  
County of Kootenai,—ss.

At Harrison, in said county of Kootenai, State of Idaho, in said district of Idaho, on the 21st day of August, 1912, came Mary Wall, of said city of Harrison, in the county, State and district aforesaid, and made oath and says that she filed her original proof of claim herein on September 7, 1912, and that by leave of Court first had and obtained she filed her amended proof of claim herein on June 13, 1912, and that by reason of objections thereto filed by the trustee of said bankrupt estate and under the instructions by the Court said proof of claim and amended proof of claim are hereby amended so as to segregate that portion thereof claimed as a secured debt from that portion thereof claimed as an unsecured debt, leave of Court therefor having been first had and obtained, and that she claims herein only that portion thereof claimed as a secured debt; that the Lane Lumber Company, Limited, a corporation, against whom a petition for adjudication of bankruptcy has been filed, was at and before the filing of said petition, and still is, justly indebted to said



deponent in the sum of nine hundred thirty-six and 35/100 dollars (\$936.35), the same being \$750 principal and \$186.35 interest thereon; that said debt is evidenced by and this claim is based upon the hereto attached promissory note marked Exhibit "A," and [11] made part hereof, dated December 2, 1907, for the sum of \$750, with interest thereon at the rate of 7% per annum from date until paid, executed and delivered by said bankrupt to deponent, who is now, and at all times herein mentioned has been, the owner and holder thereof; that the consideration of said debt and of the execution and delivery of said note is as follows, to wit;—that on or about December 2, 1907, deponent, being then the owner of the north half of the northeast quarter and the north half of the northwest quarter of section thirty-four, in township forty-nine north, range two east of Boise Meridian, in Shoshone County, State of Idaho, granted, bargained, sold and conveyed said premises to said bankrupt for the price of \$1350.00; that no part of said debt or price has been paid except the sum of \$600.00; and that said promissory note was executed and delivered by said bankrupt to deponent as an evidence of the unpaid part of said price; and that the only securities held by this deponent for said price are the following, to wit, that said debt is the unpaid part of the price of said premises sold as aforesaid and is unsecured otherwise than by the personal obligation of said bankrupt; and that neither at the present time nor at the time when said debt was first filed herein as a secured debt had said bankrupt sold or transferred said premises to any pur-

chaser or incumbrancer in good faith and for value; and that deponent asserts and claims a vendor's lien against said premises and against the proceeds resulting from any sale that may be made of the same by this Court or by said bankrupt or its successors; said claim of lien is based upon sections 3441 and 3443 of the Revised Code of the State of Idaho and upon the Bankruptcy Laws of the United States and upon the Rules and Practices of Courts of Equity.

Wherefore, deponent prays the Court to adjudge said debt, to wit, the sum of nine hundred thirty-six and 35/100 dollars (\$936.35), to be a lien against said premises, and to order [12] such premises sold for the highest and best price obtainable, and that said debt be paid as a secured debt out of the proceeds resulting from such sale, and that after all funds out of which said debt is entitled to be paid as a secured debt are exhausted, the deficiency, if any there shall be, be allowed and paid as an unsecured debt against said estate, and for such other and further relief as to the Court may seem meet and proper in the premises, and deponent's costs and disbursements in this proceeding expended.

MARY WALL,  
Creditor.

Subscribed and sworn to before me this 21st day of August, A. D. 1912.

[Seal]

FRANK LANGLEY,  
Notary Public. [13]

[Endorsed]: #449. In the District Court of the U. S. for the District of Idaho, Northern Division.

In the Matter of the Lane Lumber Company, Limited,  
a Corporation, Involuntary Bankrupt. Second  
Amended Proof of Claim of Mary Wall, Secured  
Debt. Amount, \$936.35. Record, p. 1421 to 1424.  
Filed this 22d day of August, 1912, at 2:15 P. M. L.  
L. Lewis, Referee. Filed Dec. 23, 1913. A. L. Rich-  
ardson, Clerk. [14]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

No. 449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Order Allowing Secured Claim of Mary Wall.**

The second amended proof of secured debt of  
Mary Wall, a creditor herein, and the objections of  
Samuel L. Boyd, trustee of said estate, the Northern  
Trust Company, Union Iron Works, Bank of Cali-  
fornia, Post, Avery & Higgins, and, all other objec-  
tions thereto, having come regularly for hearing,  
Frank Langley appearing of counsel for said Mary  
Wall, and E. N. LaVeine, A. E. Russell, Reed &  
Boughton, and John H. Wourms appearing for the  
trustee, Bank of California, Post, Avery & Higgins,  
the petitioner creditors herein, and Harry L. Day,  
assignee of the State Bank of Commerce, respec-  
tively, H. M. Stephens appearing for the Carnegie  
Trust Company, and, after argument of respective  
counsel, the consideration of briefs submitted, and

entire matter having been first duly considered, and the Court being fully advised in the premises:

IT IS ORDERED that the said objections herein submitted, and each of them, be, and the same are, hereby overruled:

IT IS FURTHER ORDERED that the claim of the said Mary Wall be, and the same is, hereby allowed in the sum of Nine Hundred Thirty-six and 35/100 (\$936.35) Dollars:

IT IS FURTHER ORDERED that the said Mary Wall be, and she is hereby, declared to have a vendor's lien on the north half of the northeast quarter (N.  $\frac{1}{2}$  NE.  $\frac{1}{4}$ ) and the north half of the northwest quarter (N.  $\frac{1}{2}$  NW.  $\frac{1}{4}$ ) of section thirty-four (34), [15] township forty-nine (49), north range 2 E., B. M., Shoshone County, Idaho, the property of said bankrupt, for the said sum of Nine Hundred Thirty-six and 35/100 (\$936.35) Dollars, the purchase price thereof and the accrued interest thereon:

IT IS FURTHER ORDERED that the said trustee be, and he is hereby, directed to sell in accordance with law and the practice of this Court, the above-described real property, and the whole thereof (subject, however, to the prior lien of the Northern Trust Company, a corporation, and Augustus S. Peabody, Trustees, as disclosed by its proof of secured claim on file herein), and to apply the proceeds arising from said sale (after the said prior lien of the Northern Trust Company, and Augustus S. Peabody has been fully paid and satisfied) to the payment, satisfaction and discharge of the claim, constituting a vendor's lien on said property, of the said Mary Wall, the



residue and remainder of said proceeds, if any there be, to be passed to the proper fund of said estate:

AND IT IS FURTHER ORDERED that in the event that the above-described land does not sell for sufficient to satisfy and discharge, in full, the claim of the said Mary Wall for the said sum of Nine Hundred Thirty-six and  $35/100$  (\$936.35) Dollars, as herein allowed (subject always to the prior lien of the Northern Trust Company and Augustus S. Peabody, as aforesaid); then such deficiency, if any there be, be, and the same is hereby, allowed as an unsecured claim against said estate.

Done in Coeur d'Alene, Idaho, in said District, this 31st day of July, A. D. 1913.

LAWRENCE L. LEWIS,  
Referee in Bankruptcy. [16]

[Endorsed]: #449. In the Matter of the Lane Lumber Company, Limited, Involuntary Bankrupt. Order Allowing Secured Claim of Mary Wall. Filed as of June 31st, 1913, this 16th day of August, 1913, at 10:30 A. M. L. L. Lewis, Referee. Filed Dec. 23, 1913. A. L. Richardson, Clerk. [17]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Petition for Review of Referee's Order.**

**PETITION FOR REVIEW OF REFEREE'S  
ORDER ALLOWING SECURED CLAIM OF  
MARY WALL IN THE SUM OF \$936.35,  
ESTABLISHING A VENDOR'S LIEN.**

To the Honorable Lawrence L. Lewis, Referee in  
Bankruptcy.

Your petitioner respectfully shows:

That he is duly appointed, qualified and acting trustee of the Lane Lumber Company, Limited, a corporation, the above-named bankrupt;

That on August 22, 1912, Mary Wall filed her second amended proof of claim of secured debt praying for the Court to adjudge the amount claimed in said proof of debt, to wit, \$936.35 as a vendor's lien on the north half (N.  $\frac{1}{2}$ ) of the northeast quarter (NE.  $\frac{1}{4}$ ) and the north half (N.  $\frac{1}{2}$ ) of the northwest quarter (NW.  $\frac{1}{4}$ ) of section 34 of township 49 north, range 2, E. B. M., Shoshone County, State of Idaho;

That thereafter on August 29, 1912, the trustee herein filed objections to said second amended proof of debt of Mary Wall above referred to;

That thereafter hearing was had and the matter was submitted to the referee of the above-entitled court;

That on August 16, 1913, the referee made and entered an order herein decreeing to said Mary Wall a vendor's lien on the above described land in the aforesaid amount, a copy of which order is hereto attached, made a part hereof and marked Exhibit "A."

That such order was and is erroneous in that:

1. That claimant is guilty of laches for waiting until after [18] the filing of the petition in bankruptcy herein which was filed on June 20, 1911, before attempting to assert her pretended vendor's lien.

2. That the title of the property of the bankrupt, including the land described in claimant's said proof of debt, passed to the trustee on September 26, 1911, and was thereupon and is still, "Vested with rights, remedies and powers of a creditor holding a lien by legal or equitable proceedings," making the trustee's title paramount to that of the vendor lien claimant.

3. That prior to the filing of said claim, on, to wit, the 16th day of October, 1911, the trustee caused to be filed for record with the County Recorder of Shoshone County, Idaho, a duly certified copy of the order of adjudication herein, which was recorded in Book Q of Miscellaneous Records, on Page 485, which act vested the title of said north half (N.1/2) of the northeast quarter (NE.1/4) and the north half (N.1/2) of the northwest quarter (NW.1/4) of section 34, absolutely in the trustee, subject only to the valid liens asserted of record;

4. That the sum claimed to be the purchase price was far in excess of the reasonable value of the land described, at the date of the alleged sale; that the purchase thereof was not authorized by the Board of Directors;

5. That the said transfer was made by claimant, who was and is a relative of the officers of the bankrupt, to wit, a sister of the president, P. H. Wall, and a sister to the secretary M. K. Wall, of the bankrupt corporation, with a full knowledge of the embarrassed



financial condition of the bankrupt at the time of said purchase; that it was her duty at said time to secure the purchase price, if any purchase price was agreed upon, by action and ratification of the Board of Directors;

6. That the bankrupt, by its president, P. H. Wall, and its secretary, M. K. Wall, by order of the Board of Directors, [19] executed that certain mortgage and bond set forth in the secured proof of debt of the Northern Trust Company, #(139) S., filed herein and allowed as a secured debt, which has not been paid; that in said mortgage and bond said property was included therefore, and by said act the right to a vendor's lien by claimant was absolved, if any he had, as against the Northern Trust Company or the Trustee, and she is estopped at this time from asserting it, for the reason that claimant well knew that said mortgage and bond covered the above described property, and all property owned by the bankrupt or standing in its name, at the date of the execution of said mortgage and bond;

7. That claimant permitted said land to remain on the records of Shoshone County, Idaho, as unencumbered, except as to said Northern Trust Company under said mortgage and bond, thereby at all times fraudulently misrepresenting the true financial condition of the assets of the bankrupt to the creditors of the bankrupt, and its trustee at the time of his appointment, qualification and filing of said certified copy of said order of adjudication;

8. That the receipt of said promissory note, as alleged as evidence of the balance of said purchase

price, was given and received in payment of the debt for the balance of the purchase price of said land, and claimant is estopped, in view of said facts, and the facts above alleged, from asserting, claiming or perfecting a vendor's lien against the land.

9. That the bankrupt's schedules filed on August 22, 1911, do not disclose an indebtedness from the bankrupt to Mary Wall, in the sum of \$936.35, entitled to a vendor's lien;

10. That for the foregoing reasons claimant is estopped from asserting a vendor's lien; that section 47 of the Bankruptcy Act as amended in 1910, is a bar to said lien allowed by the Referee aforesaid; said order is against the law. [20]

WHEREFORE, your petitioner feeling aggrieved because of such order, prays that the same may be reviewed as provided by the Bankruptcy Act and General Orders.

SAMUEL L. BOYD,  
Trustee.

Dated September 3, 1913.

State of Idaho,  
County of Kootenai,—ss.

Samuel L. Boyd, the trustee and petitioner mentioned and described in the foregoing petition, does hereby make solemn oath that the statements contained in the foregoing petition are true according to the best of his knowledge, information and belief.

SAMUEL L. BOYD,  
Trustee.

Subscribed and sworn to before me this 3d day of  
September, 1913.

[Seal]

W. F. McNAUGHTON,  
Notary Public.

E. N. LaVEINE,  
Attorney for Trustee.

J. H. WOURMS,  
Attorney for State Bank of Commerce.

POST, AVERY & HIGGINS and

A. E. RUSSELL,  
Attorneys for Bank of California.

H. M. STEVENS,  
Attorneys for Carnegie Trust Company. [21]

**Exhibit "A"—Order Allowing Secured Claim of  
Mary Wall.**

*In the District Court of the United States District  
of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

The second amended proof of secured debt of  
Mary Wall, a creditor herein, and the objections of  
Samuel L. Boyd, trustee of said estate, the Northern  
Trust Company, Union Iron Works, Bank of Califor-  
nia, Post, Avery & Higgins, and, all other objections  
thereto, having come regularly for hearing, Frank  
Langley appearing of counsel for said Mary Wall,  
and E. N. La Veine, A. E. Russell, Reed & Bough-  
ton, and John H. Wourms, appearing for the trustee,

Bank of California, Post, Avery & Higgins, the petitioning creditors herein, and Harry L. Day, assignee of the State Bank of Commerce, respectively, H. M. Stevens appearing for the Carnegie Trust Company, and, after argument of respective counsel, the consideration of briefs submitted the entire matter having been first duly considered, and the Court being fully advised in the premises:

IT IS ORDERED that the said objections herein submitted and each of them, be, and the same are, hereby overruled.

IT IS FURTHER ORDERED that the claim of the said Mary Wall be, and the same is, hereby allowed in the sum of Nine Hundred Thirty-six and 35/100 (\$936.35) Dollars;

IT IS FURTHER ORDERED that the said Mary Wall be, and she is, hereby declared to have a vendor's lien on the north half [22] (N.1/2) of the northeast (NE.1/4) quarter and the north half (N.1/2) of the northwest quarter (NW.1/4) of section thirty-four (34), township forty-nine (49), north range 2 E., B. M., Shoshone County, Idaho, the property of said bankrupt, for the said sum of Nine Hundred Thirty-six and 35/100 (\$936.35) Dollars, the purchase price thereof and the secured interest thereon;

IT IS FURTHER ORDERED that the said trustee be, and he is, hereby directed to sell in accordance with law and the practice of this Court, the above-described real property, and the whole thereof (subject, however, to the prior lien of the Northern Trust Company, a corporation, and Augustus S. Peabody, Trustees, as disclosed by its proof of



secured claim on file herein), and to apply the proceeds arising from said sale (after the said prior lien of the Northern Trust Company and Augustus S. Peabody has been fully paid and satisfied) to the payment, satisfaction and discharge of the claim, constituting a vendor's lien on said property, of the said Mary Wall, the residue and remainder of said proceeds, if any there be, to be passed to the proper fund of said estate;

AND IT IS FURTHER ORDERED that in the event that the above-described land does not sell for sufficient to satisfy and discharge, in full, the claim of the said Mary Wall for the said sum of Nine Hundred Thirty-six and 35/100 (\$936.35) Dollars, as herein allowed (subject always to the prior lien of the Northern Trust Company and Augustus S. Peabody, as aforesaid), then such deficiency, if any there be, be, and the same is, hereby allowed as an unsecured claim against the said estate;

Done at Coeur d'Alene, Idaho, in said District, this 31st day of July, A. D. 1913.

LAWRENCE L. LEWIS,  
Referee in Bankruptcy. [23]

[Endorsed]: 449. In the District Court of the United States for the District of Idaho, Northern Division. In the Matter of Lane Lumber Company, Limited, a Corporation, Involuntary Bankrupt. Petition for Review of Referee's Order Allowing Secured Claim of Mary Wall, in the Sum of \$936.35, Establishing a Vendor's Lien. Before Lawrence L. Lewis, Referee in Bankruptcy. E. N. LaVeine, At-

torney for Trustee. Filed this 3d day of September, 1913, at 5:30 P. M. L. L. Lawrence, Referee. Filed Dec. 23, 1913. A. L. Richardson, Clerk. [24]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—No. 449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Report of Referee.**

REPORT OF REFEREE IN BANKRUPTCY ON  
AN ORDER ALLOWING SECURED CLAIM  
OF MARY WALL IN THE SUM OF \$936.35,  
AND ESTABLISHING VENDOR'S LIEN.

To the Honorable FRANK S. DIETRICH, District  
Judge:

I, Lawrence L. Lewis, Referee in Bankruptcy, in  
charge of the above-entitled proceedings, do hereby  
certify:

1.

That in the course of said proceedings on, to wit,  
the 31st day of July, 1913, an order was made and  
filed herein allowing the claim of Mary Wall in the  
sum of Nine Hundred Thirty-six and 35/100  
(\$936.35) Dollars, and establishing a vendor's lien on  
the real property described in said order for said  
amount.

2.

That thereafter on, to wit, the 3d day of September, 1913, Samuel L. Boyd, trustee of the above-en-

titled estate, feeling aggrieved thereat, filed herein his petition for review, which said petition was duly granted.

## 3.

That a full, true and correct summary of the proceedings on which said order was made and based is as follows, to wit:

On, to wit, the 22d day of August, 1912, the second [25] amended proof of claim of secured debt of Mary Wall in the sum of Nine Hundred Thirty-six and 35/100 (\$936.35) Dollars was duly filed herein; that thereafter on, to wit, the 29th day of August, 1912, the objections of the trustee thereto were duly filed in said cause; that thereafter on, to wit, the 14th day of October, 1912, said second amended proof of secured claim and the trustee's objections thereto came regularly for hearing (See Record of Proceedings, pages 1320, 1421 to 1424, both inclusive); that thereafter, the brief of the trustee, herein, the brief of Mary Wall, the said claimant, and the brief of Post, Avery & Higgins et al., were respectively filed in said cause, after oral argument of the issues involved; and after the entire matter had been taken under advisement, the said order of the 31st day of July, 1913, was duly made and filed in said cause (a copy of which said order is attached to the petition for review on file in said proceedings and therein referred to and marked Exhibit "A"), to which said order the trustee, herein, duly excepted and submits that such order was and is erroneous in ten specific particulars, which said



particulars are fully set forth in his said petition for review.

THE PRECISE QUESTIONS SUBMITTED for consideration and decision are these:

1. Is the claimant, Mary Wall, estopped by laches, or otherwise, from asserting a vendor's lien against the land set forth and described in said order, under and by virtue of sections 3441 and 3443 of the Idaho Revised Codes?

2. Do sections 3441 and 3443 of the Idaho Revised Codes, providing for a vendor's lien against real property for the purchase price, or any part thereof, take precedence over the lien of the Trustees in bankruptcy as provided in section 47 of the Bankruptcy Act of 1898, as amended in 1910? That is, does section 47 of the Act of 1898, as amended in 1910, operate as a bar to [26] the assertion of a vendor's lien by Mary Wall, the said claimant, as provided for in sections 3441 and 3443 of the Idaho Revised Codes?

3. Is the order from which this review is taken erroneous in point of law?

I hand up, herewith, for the information of the Judge, the following records, files and papers, to wit:

1. Petition for Review.
2. Record of Proceedings, pages 1320; and pages 1421 to 1424, both inclusive.
3. Order allowing secured claim of Mary Wall.
4. Second amended proof of claim of Mary Wall, secured debt; and the trustee's objections thereto attached.
5. Brief of claimant (sent up with M. K. Wall files).



for the unpaid purchase price upon land sold, after an adjudication in bankruptcy against the vendee, the vendor having, prior to the institution of the bankruptcy proceedings, commenced no action to foreclose the lien.

It is conceded that such liens are recognized and established by the statutes of the State. Section 3441 of the Idaho Revised Codes is as follows: "One who sells real property has a vendor's lien thereon independent of possession for so much of the price as remains unpaid and unsecured otherwise than by the personal obligation of the buyer." And section 3443: "The [28] liens of vendors and purchasers of real property are valid against everyone claiming under the debtor except a purchaser or incumbrancer in good faith and for value."

It is unnecessary to relate the facts involved, for the trustee concedes that such liens originally vested in the several vendors, the claimants here, which, if lost or divested at all, have been so lost or divested by reason of the institution of the bankruptcy proceeding, and for no other cause. Indeed the question for consideration is still further limited by the express concession on the part of the trustee, "that prior to the amendment to the bankruptcy act of 1910, amending Section 47, the vendor's lien might be established." We need, therefore, expressly decide only whether, upon the institution of a bankruptcy proceeding, the provisions of this amendment automatically operate to nullify or extinguish a pre-existing, valid vendor's lien. Section 47, so far as

pertinent, is as follows, the amendatory language being underscored:

“Sec. 47a. Trustees shall respectively (1) account for and pay over to the estates under their control all interest received by them upon property of such estate; (2) collect and reduce to money the property of the estates for which they are trustees, under the direction of the Court, and close up the estate as expeditiously as is compatible with the best interests of the parties in interest; and such trustees, as to all property in the custody or coming into the custody of the bankruptcy court, shall be deemed vester with all the rights, remedies, and powers of a creditor holding a lien by legal or equitable proceedings thereon; and also, as to all property not in the custody of the bankruptcy court, shall be deemed vested with all the rights, remedies, and powers of a judgment creditor holding an execution duly returned unsatisfied.” [29]

It will be noted that the amendment does not in terms purport to act upon liens or to prescribe the conditions under which they may be either created or enforced; it defines the status of a trustee in bankruptcy, and declares the scope of his rights and remedies. As suggested by counsel for the trustee here, not unlikely the controlling purpose of the amendment was, to relieve trustees from the disability imposed by the rule adopted by the courts, notably in such cases as *In re Economical Printing Co.*, 110 Fed. 514, and *York Mfg. Co. vs. Cassell*, 201 U. S. 304. But this rule relates not only to the validity of cer-



tain classes of liens under the state laws, but only to the right of the trustee to question claims that are defective or invalid under such laws. The rule is now, as it always has been, that with certain exceptions immaterial to the present inquiry, liens created by authority of, and in compliance with, the statutes of a state will be recognized and sustained in bankruptcy proceedings. The amendment of section 47 has in no wise affected this rule. Loveland on Bankruptcy (4th ed.), sec. 372. There is nothing in *Pacific State Bank vs. Coates*, 205 Fed. 618, out of harmony with this view. "Liens given or accepted in good faith and not in contemplation or in fraud upon the Act, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice, shall, to the extent of such present consideration only, not be affected by this act." (Sec. 67d.) It is not questioned that these claims are in good faith, and that the liens were for a present consideration, and that no record thereof was required by the state statutes; as already stated, it is conceded that at the moment the bankruptcy proceeding was instituted the claims were valid subsisting liens. The act declares only that; "Claims which, for want of record or for other reasons, would not have been valid liens as against the claims of creditors of the [30] bankrupt, shall be liens against his estate." (Sec. 67a.) Here, then, is the test: Were these liens invalid against the creditors of the bankrupt merely because they were not recorded? If they were, then the trustee might, under the amendment to Section 47, challenge them;

his right so to do is conferred by the amendment, and that is its only purpose and effect; it does not operate directly upon the claims of lien. Now, as we have seen, under the Idaho statute a vendor's lien, though unrecorded, is valid as against all the world, excepting only "a purchaser or incumbrancer in good faith and for value." Unless, therefore, a trustee has, by virtue of the amendment to section 47 of the bankruptcy act, the status of such a purchaser or incumbrancer, he cannot assail the lien, for under the law it has validity against all other claims. The controversy is therefore reduced to the question merely of the meaning of the clause in the State statute, "purchaser or incumbrancer in good faith and for value." At most, if we assume that the lands here are in the custody of the Court, the trustee has the status only of a "creditor holding a lien by legal or equitable proceedings thereon," as, for example, the plaintiff in an attachment suit, or a judgment creditor after a levy of execution. But such a creditor is not a purchaser, nor is he an incumbrancer in good faith and for value." A citation of authorities upon this proposition is scarcely necessary.

The purpose and scope of the amendment, and the distinction between the claims here and cases to which it was intended to apply, may be illustrated by reference to another provision of the Idaho statutes: In Section 3408 of the Revised Statutes it is declared that unless a chattel mortgage is executed with the formalities therein prescribed and filed for public record, it is void as against creditors of the mortgagor and subsequent purchasers and incumbrancers

of the property in good faith and for [31] value. Differing from vendor's liens, it will be observed, such an unrecorded mortgage is void not only against purchasers and incumbrancers, but against "creditors." Prior to the amendment of section 47, it was quite generally held that a trustee in bankruptcy could not, upon behalf of general creditors, assail the validity of such an instrument, because such creditors, having no specific lien upon the property, were in no position to make the attack, and therefore the trustee, acting upon their behalf, could assert no better right. *In re Economical Printing Co.*, 110 Fed. 514. *Remington on Bankruptcy*, sections 1207½ to 1210. The amendment meets this emergency by conferring upon him the status of a creditor who has such lien, and may therefore object to the assertion of a lien under an unrecorded mortgage. See, also, section 3170, which provides that transfers of personal property not accompanied by delivery of possession to the transferee are void not only against incumbrancers and purchasers, but also against "creditors." Possibly Congress might have conferred upon trustees all the rights and remedies of a purchaser or incumbrancer for value and in good faith, but it has not done so; it has chosen to limit such rights and remedies to those of one holding a lien arising out of legal or equitable proceedings.

It is unimportant that the claimants did not commence actions to foreclose their liens prior to the institution of the bankruptcy proceedings. A suit to foreclose a lien is not material to its validity. The lien is established by operation of law, and is quite



as complete before as after the institution of the proceedings to foreclose it.

It follows that the referee was right in holding that as a matter of law the claimants were entitled to liens. The record suggests some other questions, such as whether the claimants, or any of them, are estopped to assert their claims, or whether the [32] trustee should be subrogated to the rights of the mortgagee or trustee in a trust deed securing a large issue of bonds covering these and other lands, which indebtedness the trustee has now paid, but they have not been argued, and I therefore express no opinion relative thereto. The order of the referee will in each case be affirmed. [33]

[Endorsed]: No. 449. In the U. S. District Court for the District of Idaho, Northern Division. In the Matter of the Lane Lumber Company, Bankrupt. Memorandum Decision Covering Petition for Review Brought by the Trustee and Involving the Validity of Three Vendors' Lien Claims, Namely, Those of M. K. Wall, Joseph Brown and Mary Wall. Filed December 2, 1913. A. L. Richardson, Clerk. [34]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—#449.

MARY WALL VENDOR LIEN CLAIM OF  
\$936.35.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation.

Involuntary Bankrupt.

**Findings of Fact and Conclusions of Law.**

The vendor lien claim of Mary Wall in the sum of \$936.35 came on regularly before the Court without a jury, on petition of the trustee for review of the order made herein by the referee, and from the facts presented by the pleadings, and the records, the Court finds the facts as follows, to wit:

**I.**

That on December 2, 1907, Mary Wall, the claimant herein, sold and conveyed to the Lane Lumber Company, Limited, a corporation, bankrupt above named, by warranty deed, for the price of \$1,350, at which time \$600 of such price was paid, the north half of the northeast quarter (N.  $\frac{1}{2}$  NE.  $\frac{1}{4}$ ), and the north half of the northwest quarter (N.  $\frac{1}{2}$  NW.  $\frac{1}{4}$ ) of section 34, twp. 49 north, range 2 E., B. M., Shoshone County, State of Idaho; that there is now, and was on, to wit, the 20th day of June, 1911, the date of filing of the petition against said bankrupt, due and owing on said purchase price and interest thereon from the bankrupt to Mary Wall, the said claimant, the sum of \$936.35, which said sum is, and was at all times hereinbefore mentioned, wholly unpaid and unsecured otherwise than by the personal obligation of the buyer, the said Lane Lumber Company, Ltd.

**II.**

That on July 29, 1911, the said Lane Lumber Company, Ltd., was adjudged an involuntary bankrupt.

**III.**

That on September 22, 1911, Samuel L. Boyd qualified as trustee of the estate of said bankrupt, and had

continued to and now is acting as such trustee. [35]

#### IV.

That on September 7, 1911, the claimant, Mary Wall, filed herein her claim against said bankrupt for the said sum of \$936.35, as an unsecured debt; that on August 22, 1912, by leave of Court first had and obtained, she filed herein the second amended proof of secured debt claiming said sum of \$936.35 as a vendor's lien against the property of the bankrupt described as the north half of the northeast quarter (N.  $\frac{1}{2}$  NE.  $\frac{1}{4}$ ), and the north half of the northwest quarter (N.  $\frac{1}{2}$  NW.  $\frac{1}{4}$ ), of section 34, twp. 49 north, range 2 E., B. M., Shoshone County, State of Idaho.

#### V.

That on August 29, 1912, the trustee filed objections to said proof of secured debt.

#### VI.

That on July 31, 1913, the Honorable Lawrence L. Lewis, referee herein, made and filed an order overruling said objections and allowing said claim as a secured debt and vendor's lien.

#### VII.

That on September 3, 1913, the attorney for the trustee filed his petition for review of the order of the referee allowing said claim in the sum of \$936.35, establishing a vendor's lien upon said lands.

#### VIII.

That on November 19, 1913, the referee filed his report with the clerk of this court bearing upon said claim and therewith transmitted all of the papers above mentioned and the record of proceedings had

before the referee herein, being pages 1320, 1421 to 1434, inclusive.

### IX.

That the claimant is not guilty of laches for waiting until after the filing of the petition in bankruptcy on June 20, 1911, before attempting to assert her vendor's lien. [36]

### X.

That the title to all of the property of the bankrupt, including the lands described in claimant's vendor's lien, passed to the trustee on September 26, 1911, who was thereupon and is still "vested with rights, remedies and powers of a creditor holding a lien by legal or equitable proceedings," but that such "rights," etc., are subordinate to said claimant's vendor's lien.

### XI.

That the trustee had no notice of vendor's lien until it was filed with the referee herein.

### XII

That the appraised value of the land on which the vendor's lien is claimed, placed thereon by the appraisers, is \$500.00.

### XIII.

That Mary Wall permitted said land to remain on the records as unincumbered until the filing of her proof of claim herein.

### Conclusions of Law.

As a conclusion of law from the foregoing facts, the Court finds that the referee's order complained of by the trustees should be affirmed and said vendor's lien decreed on the property described therein under sec-



tions 3441 and 3443 I. R. C., and under the bankruptcy Act of 1898 and amendments.

Dated December 13, 1913.

FRANK S. DIETRICH,  
District Judge.

The foregoing findings are made, in response to a suggestion by counsel for the trustee, as a statement of the facts and of the theory upon which the order of December 2d, 1913, was made affirming the referee's order.

Dated December 13, 1913.

FRANK S. DIETRICH,  
Judge. [37]

[Endorsed]: No. 449. In the District Court of the United States for the District of Idaho, Northern Division. In the Matter of the Lane Lumber Company, Limited, a Corporation, Involuntary Bankrupt. Findings of Fact and Conclusions of Law on Second Amended Proof of Claim of Mary Wall, Secured Debt, \$936.35. Filed December 13, 1913. A. L. Richardson, Clerk. [38]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

IN BANKRUPTCY—No. 449.

MARY WALL VENDOR LIEN CLAIM OF  
\$936.35.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation, Involuntary Bank-  
rupt.



**Judgment.**

In the above-entitled matter the petition of the trustee in bankruptcy for the review of an order of the referee in bankruptcy recognizing and allowing the claim of Mary Wall for \$936.35 as a lien (vendor's) upon the north half of the northeast quarter, and the north half of the northwest quarter of section 34, township 49 north, range 2 east, B. M., Shoshone County, State of Idaho, under sections 3441 and 3445 of the Idaho Revised Codes, and under the bankruptcy act as amended, came on to be heard and was argued by counsel, and thereupon, upon consideration thereof, it is ordered, adjudged and decreed that said order of the referee be, and the same is, hereby affirmed.

Dated this 23d day of December, 1913.

FRANK S. DIETRICH,

Judge. [39]

[Endorsed]: No. 449. In the District Court of the United States for the District of Idaho, Northern Division. In the Matter of the Lane Lumber Company, Limited, a Corporation, Involuntary Bankrupt. In Bankruptcy. No. 449. Mary Wall Vendor Lien Claim of \$936.35. Judgment. Filed December 23, 1913. A. L. Richardson, Clerk. [40]

*In the District Court of the United States for the  
District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,

Involuntary Bankrupt.

**Petition by Trustee for Appeal and Order Allowing  
Same.**

PETITION OF SAMUEL L. BOYD, TRUSTEE  
IN BANKRUPTCY, OF THE LANE LUM-  
BER COMPANY, LIMITED, A CORPORA-  
TION, BANKRUPT.

To the Honorable F. S. DIETRICH, District Judge  
of the District Court of the United States for the  
District of Idaho, Northern Division:

Samuel L. Boyd, the duly appointed, qualified and  
acting trustee, of the above-named bankrupt, conceiv-  
ing himself, as such trustee, and the unsecured cred-  
itors of the above-named bankrupt, aggrieved by the  
judgment made and entered on the 23d day of Decem-  
ber, 1913, in the above-entitled matter, affirming the  
referee herein and establishing a vendor's lien in  
favor of Mary Wall, in the sum of \$936.35, on the  
north half of the northeast quarter (N.1/2 NE.1/4)  
and the north half of the northwest quarter (N.1/2  
NW. 1/4), of section 34, twp. 49 north, range 2 E.,  
B. M., Shoshone County, State of Idaho, does hereby  
appeal from such judgment to the United States Cir-  
cuit Court of Appeals for the Ninth Circuit, for the  
reason specified in the Assignments of Error, which is

filed herewith, and he prays that this appeal may be allowed, and that a transcript of the record, proceedings and papers upon which said judgment was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit. [41]

E. N. LaVEINE,

Attorney for Samuel L. Boyd, Trustee of the Lane Lumber Co., Limited, a Corporation, Bankrupt.

I hereby waive citation.

FRANK LANGLEY,  
Attorney for Mary Wall.

**Order.**

The foregoing claim of appeal is allowed.

FRANK S. DIETRICH,  
District Judge.

Dated December 23, 1913.

Filed December 23, 1913. A. L. Richardson, Clerk.  
[42]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,  
Involuntary Bankrupt.

**Assignments of Error by Trustee.**

ASSIGNMENTS OF ERROR, BY TRUSTEE, TO  
ALLOWANCE OF CLAIM OF MARY  
WALL, AS A VENDOR'S LIEN, IN THE  
SUM OF \$936.35.

Comes now Samuel L. Boyd, as trustee in bank-

ruptcy of the Lane Lumber Company, Limited, a corporation, bankrupt, by E. N. LaVeine, his attorney, and says that the judgment in said matter creating said vendor's lien is erroneous and against the just rights of said trustee, and the creditors of the bankrupt, for the following reasons:

First: That on account of claimant's delay in attempting to assert said vendor's lien she is estopped from asserting said lien as against the trustee.

Second: Because the statutes of the State of Idaho, secs. 3441 and 3443, Idaho Revised Codes, under which Mary Wall's \$936.35 vendor lien claim was sustained, had no application to the facts and the law upon which the court sustained said lien, as against the trustee's title.

Third: Because the trustee in bankruptcy, under the Bankruptcy Act, had greater rights as against said Mary Wall and her claim for vendor's lien, than the bankrupt itself.

Fourth: Because under the Bankruptcy Act the trustee was vested with the title to said land paramount to that of the vendor lien claimant. [43]

Fifth: Because the findings, judgment and decree of this Court sustaining the action of the referee allowing said claim for \$936.35, as a vendor's lien, is erroneous, illegal and against the law.

WHEREFORE, the said Samuel L. Boyd, trustee in bankruptcy, of the said Lane Lumber Company, Limited, a corporation, *bankruptcy*, prays that said order, judgment and decree, affirming the action and ruling of the referee allowing the claim of said Mary Wall, as a vendor's lien, in the sum of \$936.35, be re-



versed and that the Court may be directed to enter a decree reversing the action of the referee in establishing said vendor's lien.

E. N. LaVEINE,  
Attorney for Samuel L. Boyd, Trustee of the Lane  
Lumber Co., Limited, a Corporation, Bankrupt.

Filed December 23, 1913. A. L. Richardson, Clerk.  
[44]

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*In the District Court of the United States for the  
District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation, Involuntary Bank-  
rupt.

**Praeipce [for Transcript of Record].**

PRAECIPE, BY TRUSTEE, FOR TRAN-  
SCRIPT OF RECORD ON MARY WALL  
VENDOR LIEN CLAIM IN THE SUM OF  
\$936.35.

To Honorable A. L. RICHARDSON, Clerk of the  
United States District Court:

You are hereby respectfully requested to prepare a transcript of the following described papers with the date of filing endorsed thereon, in the above-entitled proceeding:

1. Mary Wall's proof of unsecured debt, for \$1,066.25, with exhibit attached thereto, filed with the referee on September 7, 1911.

2. Amended proof of claim of Mary Wall, for \$936.35, as a secured claim, and \$87.00 as an un-



secured claim, with exhibit attached thereto, filed with the referee on June 13, 1912.

3. Second amended proof of claim of Mary Wall, secured debt, for \$936.35, with exhibit attached thereto, filed with the referee on August 22, 1912.

4. Order of referee allowing said amended proof of secured debt for \$936.35, filed as of July 31, 1913, on the 16th day of August, 1913.

5. Petition, by trustee, for review of referee's said order, filed with the referee on September 3, 1913.

[45]

6. Report of referee, Lawrence L. Lewis, on his order allowing above claim, filed with the Clerk of the United States District Court on November 19, 1913.

7. Memorandum decision of the District Judge, filed December 2, 1913, affirming order of referee filed as of July 31, 1913, on the 16th day of August, 1913, allowing said claim as a vendor's lien.

8. Findings of fact and conclusions of law by District Judge, filed December 13, 1913.

9. Judgment or decree by District Judge, filed December 23d, 1913.

10. Petition for appeal, by trustee, and order allowing same, filed December 23d, 1913.

11. Assignments of Error, by trustee, filed December 23d, 1913,

12. This praecipe, with attached stipulation, filed December 23d, 1913.

Dated December 23d, 1913.

E. N. LAVEINE,  
Attorney for Samuel L. Boyd, Trustee.

**[Stipulation as to Transcript of Record on Appeal.]**

In order to facilitate the appeal in this matter, it is hereby stipulated between Frank Langley, attorney for claimant, Mary Wall, and E. N. LaVeine, attorney for Samuel L. Boyd, trustee, that the papers included in the foregoing praecipe, when certified by the clerk of this court, shall constitute the transcript of record on appeal to the Circuit Court of Appeals.

It is expressly agreed and understood that the lien claimant, Mary Wall, by her stipulation herein does not waive her right to move to dismiss this appeal on the ground that the matter involved should be presented by petition for revision instead of by appeal.

FRANK LANGLEY,

Attorney for Mary Wall, Claimant. Address: Coeur d'Alene, Idaho, Otterson Bldg.

E. N. LaVEINE,

Attorney for Samuel L. Boyd, Trustee. Address: Coeur d'Alene, Idaho, Giguere Bldg. [46]

[Endorsed]: No. 449. In the District Court of the United States for the District of Idaho, Northern Division. In the Matter of the Lane Lumber Company, a corporation, Involuntary Bankrupt. In re Mary Wall Vendor Lien Claim for \$936.35. Petition by Trustee for Appeal, Order Allowing the Same, Assignments of Error, Praecipe. Filed December 23, 1913. A. L. Richardson, Clerk. [47]

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**Return to Record.**

On presentation of the foregoing it is ordered by the Court that a transcript of the record, as above

stipulated, be transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, and the same is transmitted accordingly.

[Seal]

Attest: A. L. RICHARDSON,

Clerk. [48]

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**[Certificate of Clerk U. S. District Court to  
Transcript of Record.]**

*In the District Court of the United States for the District of Idaho, Northern Division.*

#449.

In the Matter of the LANE LUMBER COMPANY,  
LIMITED, a Corporation,

Involuntary Bankrupt.

I, A. L. Richardson, Clerk of the District Court of the United States for the District of Idaho, do hereby certify the foregoing transcript consisting of Mary Wall's proof of unsecured debt, for \$1,066.25, with exhibit attached thereto; amended proof of claim, of Mary Wall, for \$936.35, as a secured claim, and \$87.00 as an unsecured claim, with exhibit attached thereto; second amended proof of claim, of Mary Wall, secured debt, for \$936.35, with exhibit attached thereto; order of referee allowing said proof of secured debt for \$936.35; petition, by trustee, for review of referee's said order; report of referee, Lawrence L. Lewis, on his order allowing said claim; memorandum decision, by District Judge; findings of fact and conclusions of law, by District Judge; judgment or decree, by the District Judge; petition for appeal, by trustee, and order allowing same; assignments of er-

rors, by trustee; praecipe, with attached stipulation, each and all to be full, true and correct copies of the pleadings and proceedings in the above-entitled matter, prepared according to the praecipe heretofore set forth, and that the same together constitute the transcript of the record herein upon appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the cost of record herein amounts to the sum of \$27.70, and that the same has been paid by the appellant.

Witness my hand and the seal of said District Court, affixed at Boise, Idaho, this 26th day of December, 1913.

[Seal]

A. L. RICHARDSON,  
Clerk. [49]

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[Endorsed]: No. 2364. United States Circuit Court of Appeals for the Ninth Circuit. Samuel L. Boyd, as Trustee in Bankruptcy of the Lane Lumber Company, Limited, a Corporation, Bankrupt, Appellant, vs. Mary Wall, Appellee. In the Matter of the Lane Lumber Company, Limited, a Corporation, Bankrupt. Transcript of Record. Upon Appeal from the United States District Court for the District of Idaho, Northern Division.

Received and filed December 29, 1913.

FRANK D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.





